

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

RUDY PEREZ, #01675013

§

VS.

§

CIVIL ACTION NO. 6:19cv61

BARBARA NEIL

§

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Rudy Perez, an inmate confined at the Michael Unit within the Texas Department of Justice proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 alleging purported violations of his constitutional rights. He names Barbara Neil, Property Manager, as the sole Defendant. The complaint was referred to the United States Magistrate Judge, the Honorable John D. Love, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On December 16, 2019, Judge Love issued a Report, (Docket No. 27), recommending that Defendant's motion to reurge her motion to dismiss, (Docket No. 24), be granted and that Plaintiff's civil rights complaint be dismissed, with prejudice, for the failure to state a claim upon which relief can be granted. A copy of this Report was sent to Plaintiff at his address, with an acknowledgement card. The docket reflects that Plaintiff received a copy of the Report on December 26, 2019, (Docket No. 28). However, to date, no objections to the Report have been filed.

Because objections to Judge Love's Report have not been filed, Plaintiff Perez is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed

factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is


**ORDERED** that the Report of the United States Magistrate Judge, (Docket No. 27), is **ADOPTED** as the opinion of the Court. Further, it is

**ORDERED** that Defendant's motion to reurge her motion to dismiss, (Docket No. 24), is **GRANTED**. It is also

**ORDERED** that the above-styled civil rights lawsuit is **DISMISSED**, with prejudice, for the failure to state a claim upon which relief can be granted. Finally, it is

**ORDERED** that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **21st** day of **January, 2020**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE